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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,231	08/01/2001	Rick Meritt	124571-1000	5303

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EXAMINER
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NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/920,231

Applicant(s)

MERITT, RICK

Examiner

Son T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,6-8 and 22-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-8 and 22-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

*Son T. Nguyen*  
*Prim Exam 3643*

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Claims 2-5,9-21 have been cancelled. Pending claims are 1,6-8,22-36.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1,6-8,22-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5740757 (herein 757) in view of US 2619252 (herein 252), US 5339996 (herein 996) and US 2886002 (herein 002).

For claims 1,22, & 29, 757 discloses an animal feeder comprising a feed hopper 16 having a filling end (at ref. 100) and a feeding end (at ref. 84), the filling end has a cover having an access door with a removable lid (col. 6, lines 50-54), the feeding end has a protective cage 118; at least three legs 28 attached to the hopper; and a ladder (col. 6, line 51). In addition, 757 further discloses the feeding end has at least one feeding tub 84. However, 757 lacks a hinged lid with at least one recess lid protrusion which rests against the cover; a platform attached to the hopper; a skid assembly.

252 teaches a lid 7 having at least one recess lid protrusion 8 which rests against a tank 1 in closed position to enable the lid to be breathable (col. 2, lines 20-26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a lid having at least one recess lid protrusion as taught by 252 in place of the lid 100 of 757 in order to allow ventilation.

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996 teaches a platform 43 attached to a hopper 3 to allow a user to stand for filling the hopper. In addition, 996 also teaches a hinged lid 13,15. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a platform as taught by 996 to the hopper of 757 in order to allow a user a place to stand on when filling the hopper. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a hinge as taught by 996 on the lid of 757 in order to allow opening and closing of the lid without losing the lid.

002 teaches a skid assembly 14 on a feeder. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a skid assembly as taught by 002 on the feeder of 757 in order to allow mobility of the feeder.

For claims 6 & 26, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the hopper of 757 as modified by 252,996 & 002 from plate steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

For claims 7 & 27, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the skid assembly of 757 as modified by 252,996 & 002 to a vehicle such as a tractor, since it is notorious well known that tractor hauls feeder or hopper to various location.

For claims 8 & 28, 757 as modified by 252,996 & 002 (emphasis on 757) discloses the feed is distributed by gravity from the feeding end 84.

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For claim 23, 757 as modified by 252,996 & 002 (emphasis on 757) discloses the cage 118 encloses the feeding end (see fig. 1).

For claims 24 & 25, 757 as modified by 252,996 & 002 (emphasis on 757) discloses the feeder is welded together to provide a single, unitary structure (col. 4, lines 25-30).

4. **Claims 30-32,34-36** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5740757 (herein 757) in view of US 5339996 (herein 996) and US 2886002 (herein 002).

For claims 30 & 31, 757 discloses an animal feeder comprising a feed hopper 16 having a filling end (at ref. 100) and a feeding end (at ref. 84), the filling end has a cover having an access door with a removable lid (col. 6, lines 50-54); the feeding end has a protective cage 118; at least three legs 28 attached to the hopper; and a ladder (col. 6, line 51). In addition, 757 further discloses the feeding end has at least one feeding tub 84. However, 757 lacks a platform attached to the hopper and a skid assembly.

996 teaches a platform 43 attached to a hopper 3 to allow a user to stand for filling the hopper. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a platform as taught by 996 to the hopper of 757 in order to allow a user a place to stand on when filling the hopper.

002 teaches a skid assembly 14 on a feeder. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a skid assembly as taught by 002 on the feeder of 757 in order to allow mobility of the feeder.

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For claim 32, 996 teaches a hinged lid 13,15 for closing/opening an opening in hopper 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a hinged lid as taught by 996 in place of the lid of 757 in order to allow a user to open and close the opening without losing the lid.

For claim 34, it would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the hopper of 757 as modified by 996 & 002 from plate steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

For claim 35, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the skid assembly of 757 as modified by 996 & 002 to a vehicle such as a tractor, since it is notorious well known that tractor hauls feeder or hopper to various location.

For claim 36, 757 as modified by 996 & 002 (emphasis on 757) discloses the feed is distributed by gravity from the feeding end 84.

5. **Claim 33** is rejected under 35 U.S.C. 103(a) as being unpatentable over 757 as modified by 996 & 002 as applied to claims 30 & 31 above, and further in view of 252 (as above).

252 teaches a lid 7 having at least one recess lid protrusion 8 which rests against a tank 1 in closed position to enable the lid to be breathable (col. 2, lines 20-26). It would have been obvious to one having ordinary skill in the art at the time the invention

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was made to employ a lid having at least one recess lid protrusion as taught by 252 in place of the lid 100 of 757 as modified by 996 & 002 in order to allow ventilation.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1,6-8,22 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen  
Primary Examiner, GAU 3643  
March 30, 2004